

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
)
 Giovanni Pauletti, et al.) Group Art Unit: 1614
)
 Serial No.: 10/698,794) Examiner: Rae, Charlesworth E.
)
 Filed: October 31, 2003) Confirmation No.: 1741
)
) Customer No.: 23308
 For: DEVICES FOR DELIVERING)
 THERAPEUTIC COMPOSITIONS)
 TO AND THROUGH COVERING)
EPITHELIA)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 10, 2007.

Melinda Tompkins

DECLARATION UNDER 37 CFR 1.130

I, Richard J. D'Augustine, of Cincinnati, Ohio, hereby declare as follows:

1. I am the President and Chief Executive Officer at UMD Inc., Cincinnati, Ohio and am authorized to act on behalf of the assignee of the subject application in patent matters.

2. I am making this statement under 37 CFR 1.130 which provides:

“(a) When any claim of an application is rejected under 35 USC 103 on a U.S. patent which is not prior art under 35 USC 102(b), and the invention defined by the claims in the application are not identical but are not patentably distinct, and the inventions are owned by the same party, the applicant may disqualify the patent.... as prior art. The patent can be disqualified as prior art by submission of:

1. A terminal disclaimer in accordance with par. 1.321(c);
2. An oath or declaration stating that the application.... under examination and patent are currently owned by the same party and that the inventor named in the application is the prior inventor....”.

3. I am informed that the Office Action dated May 10, 2007 in the subject application (10/698,794) by inventors Pauletti, Giovanni M., Desai, Kishorkumar J., Roweton, Susan L., Harrison, Donald C., and Sanders, Lynda M., entitled “Devices for Delivering Therapeutic Compositions To and Through Covering Epithelia” which was filed October 31, 2003 and claims priority to November 12, 2002, contains a rejection of the claims over commonly owned US patent 6,086,909 entitled “Device and Method for Treatment of Dysmenorrhea” by inventors Harrison, Donald C., Liu, James H., Ritschel, Wolfgang A., and Stern, Roger A., said patent having a filing date of February 12, 1999 and claiming priority to June 11, 1997, issued on July 11, 2000.

4. I declare that the currently pending application and the issued patent 6,086,909, identified above are commonly owned by UMD, Inc., and that Donald C. Harrison is the inventor of both the pending application and the patent 6,086,909 cited as a reference.

5. I am similarly informed that the Office Action dated May 10, 2007 in the subject application (10/698,794) by inventors Pauletti, Giovanni M., Desai, Kishorkumar J., Roweton, Susan L., Harrison, Donald C., and Sanders, Lynda M., entitled "Devices for Delivering Therapeutic Compositions To and Through Covering Epithelia", which was filed October 31, 2003 and claims priority to November 12, 2002, contains a rejection of the claims over commonly owned US patent 6,905,701 entitled "Formulations for Transmucosal Vaginal Delivery of Bisphosphonates", by inventors Pauletti, Giovanni M., and Clendening, Chris E., filed on January 22, 2003 and claiming priority to June 11, 1997, issued on June 14, 2005.

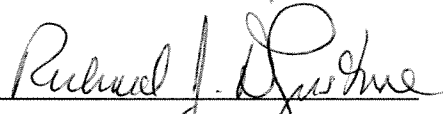
6. I declare that the currently pending application and the issued patent 6,905,701 identified above are commonly owned by UMD, Inc., and that Giovanni M. Pauletti is the inventor of both the pending application and the patent 6,905,701, cited as a reference.

7. I hereby declare on behalf of the common assignee of both cases that the two inventions were commonly owned at the time that the later invention was made.

8. I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that any such willful false statement may jeopardize the validity of the application or any patent issued thereon.

In Cincinnati, Ohio

Date: October 31, 2007

By: 
Richard J. D'Augustine